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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,677	10/12/2001	Michael Saveliev	085455-9017-00	1067

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EXAMINER
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JANVIER, JEAN D

ART UNIT	PAPER NUMBER
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3622

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/22/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

09/976,677

Applicant(s)

SAVELIEV ET AL.

Examiner

Jean Janvier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-42 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Specification*

### *Claims Status*

Claims 1-42 are currently pending in the Application.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sacchetti, USP 5,908,142A.

**As per claims 1, 3, 9-15, 16, 17, 23-29, 30, 33-37 and 38,** Sacchetti discloses an audio/visual advertising display system incorporated into a beverage dispenser assembly, the dispenser assembly including a spigot, a flow/non-flow dispensing handle operatively engaging the spigot and a selected beverage (drink) for dispensing through the spigot. A structure is arrayed atop the dispenser assembly and includes an advertising display for presenting visual and audio advertising including textual, graphical and audio components. A central processor unit is either incorporated into the structure in communication with the advertising display system or provided in a stand alone computerized hard drive, which is connected to the structure. The processor unit is capable of storing audio/visual messages (advertisements) being inputted with

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custom created messages and presenting menu displays corresponding to stored messages. An accompanying audio playback component is arranged in operative communication with an output of the processor unit and is either provided with an audio playback transducer incorporated within the display system structure or as a stand alone speaker arranged in proximity to the display system (See abstract; col. 2: 5-67).

Sacchetti also discloses, in an example, a conventional computerized beer dispensing system (in U.S. Pat. No. 4,979,641 to Turner), which includes a tap display. The primary objective of the (Turner) system is to feature a dispensing system that tracks variables of draft beer dispensings, such as accounting, inventory control (number of beers sold), price variations and time periods associated with price variations. The system also displays public relation type messages (advertisements) provided in part by front and rear displays located on associated front and rear faces of a dispenser housing and presents additional programmed messages including **beer advertisements** and other location operator programmed announcements during default of the primary programming functions. Accordingly, an operator can select the content and time duration of standard or customized computer generated messages (ads), which are displayed at desired intervals and are stored in a message queue or storage means (Col. 1: 34-55).

As per claims 1, 2, 4-8, 16, 18-22, 30-32 and 38-42, although Sacchetti teaches placing an advertising display structure on top of a beverage dispenser within a retail outlet, however, he does not explicitly disclose placing an advertisement adjacent to the beverage dispenser, paying an advertising fee for displaying an advertisement thereon, based on the amount of beverage dispensed from the dispenser, on the number of times an advertisement is displayed, on the time of day the advertisement is displayed, wherein the advertising fee is used to offset a cost of the

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beverage dispenser (or to offset the retailer's overhead cost), wherein the advertising fee is directly paid to the provider of the beverage or the advertising fee is provided to the retailer who passes it to the beverage provider for reducing the purchase or lease price for acquiring the beverage dispenser and wherein the advertisement was previously broadcast on TV and on radio.

However, it is common practice in the art for a retail store or retail outlet to display, within the store, an advertisement on a poster or on a display screen on behalf of a third party or to lease a store space to a third party or product manufacturer for placing a kiosk in the store that displays promotions and provides coupons to customers, wherein the retailer charges a fee to the third party and/or product manufacturer for the display of the advertisement or for installing or placing the kiosk within the store based on a contract or agreement between the retail store owner and the third party and/or product manufacturer and wherein the revenue received by the retailer helps him reduce overhead cost.

It is further understood in the art that a retailer may purchase or lease a beverage dispenser from a provider at a (normal) price (See pages 2 and 3 of the specification.

In addition, placing the advertising display structure next (adjacent) to the beverage dispenser instead of placing it on top of the dispenser, as taught by Sacchetti, is a matter of choice, convenience or desires, which does not directly impact the functionality of the system, the manner in which the advertisement is being displayed thereon and the fee charged to display such an advertisement on the display (regardless of its position with respect to the dispenser).

Furthermore, it is well documented in the art to charge an advertising fee to an advertiser for displaying at least one of his advertising messages to a plurality of users based on the number

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of impressions recorded, on the number of click-throughs, etc. Additionally, charging an advertising fee, based on the amount of beverage dispensed from the dispenser, on the number of times an advertisement is displayed, on the time of day the advertisement is displayed, is a matter of desires. Here, the advertising fee is being charged based on a contract between the retailer and an advertiser (provider of the beverage dispenser).

Moreover, providing the advertising fee directly to the provider of the beverage or to the retailer who passes it to the beverage dispenser provider for reducing the purchase or lease price for acquiring the beverage dispenser is a matter of convenience or desires. The fact of the matter is that the advertising fee or revenue received by the retailer is used to offset a cost of the beverage dispenser or to reduce the retailer's overhead cost.

Finally, previously broadcasting the advertisement on TV and on radio before displaying on the advertising display adjacent or coupled to the beverage dispenser is a matter of desires, which does not directly impact the functionality of the system, the manner in which the advertisement is being displayed thereon and the fee charged to display such an advertisement on the display.

“Official Notice”

Therefore, an ordinary skilled artisan would have been motivated at the time of the invention to incorporate the above disclosure (“Official Notice”) into the system of Sacchetti so as to have an advertiser compensate or pay an advertising fee to the retailer for presenting the advertiser's promotional messages or advertisements, related to products such as beers, on the advertising display device coupled to the in-store beverage dispenser to customers present at the

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retailer's location based on a contract or agreement between the retailer and the advertiser or a product manufacturer, wherein the revenue collected or received from the advertiser for displaying his messages on the advertising display screen is used by the retailer to help reduce the retailer's overhead cost including offsetting the cost to acquire the beverage dispenser in the first place, thereby providing an extra source of income to the retailer who can use the extra income or revenue, collected from the sales of advertising space on the advertising display device, to reduce his overall overhead cost and/or increase his economic bottom line.

### **Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

USP 6,038,545A to Mandenberg discloses a digital multimedia presentations assembled at a central location for stores. Start and end times are assigned. The digital multimedia presentations and the assigned start and end times are transmitted to and received at the stores. The received presentations are stored in digital multimedia players at the stores. Upon occurrence of an assigned start time, the associated digital multimedia presentation is automatically played in the store until the assigned end time. If a presentation is not available at a particular time, a generic default presentation is played. The presentations may be played at assigned start and end times until an expiration date, after which it is automatically deleted from the digital multimedia player. The digital multimedia presentations may be customized at the central location and/or at the stores. The present invention is particularly applicable for generating menu boards for an enterprise, which includes multiple sites.

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Mandeberg further teaches that the system is used to generate revenue, reduce costs, and/or increase consumer traffic. As a revenue generator, the promotional applications may create a new in-store medium that can be sponsored or co-funded by participating companies, similar to television advertisements. The operational applications can reduce the amount of materials and labor, which are currently expended for the same tasks. Finally, the edutainment applications can be the basis for an in-store experience that motivates consumers to visit a given store or motivates staff retention and effectiveness.

**USP 4,970,811 to Chang discloses an advertising device for a vending machine, which can display the image of serving drinks out of a tea-kettle into a cup or the like. The device includes first and second displays installed inside of a transparent or semitransparent billboard in front of the machine. The first and second displays are controlled to operate in relation to the operation of the machine and display the images of serving drinks out of the tea-kettle and the steaming from the cup respectively.**

Any inquiry concerning this communication from the Examiner should be directed to Jean D. Janvier, whose telephone number is (571) 272-6719. The aforementioned can normally be reached Monday-Thursday from 10:00AM to 6:00 PM EST. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Mr. Eric W. Stamber, can be reached at (571) 272- 6724.

Non-Official- 571-273-6719.

Official Draft : 571-273-8300

03/17/07

JEAN D. JANVIER  
PRIMARY EXAMINER

*Jean D. Janvier*